

SENATE BILL REPORT

SB 6350

As of February 1, 2008

Title: An act relating to adult family home caregivers.

Brief Description: Addressing adult family home caregivers.

Sponsors: Senators Prentice, Keiser and Kohl-Welles.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/04/08.

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Staff: Mac Nicholson (786-7445)

Background: In Washington there are a variety of long-term care services for persons who are elderly or have disabilities. These services include nursing homes, assisted living facilities, adult family homes, and individual providers (home care workers).

Adult Family Home Providers. The Department of Social and Health Services (DSHS) licenses adult family homes to provide residential care for up to six persons in a home-like setting. The residents in adult family homes are persons who are elderly or who have physical or developmental disabilities. They generally require supervision or assistance with activities of daily living and/or health-related services and are unable to live alone. DSHS sends payments directly to adult family homes that provide long-term care services for clients who are eligible for Medicaid and development disabilities programs.

Individual Providers. DSHS also contracts with individual providers (home care workers) to provide long-term care services for persons who are elderly or who have disabilities and who are eligible for Medicaid and developmental disabilities programs. The individual providers provide DSHS clients with personal care assistance for various tasks such as toileting, bathing, dressing, ambulating, meal preparation, and household chores. The individual providers are hired and fired by the consumer client, but are paid by DSHS. The Home Care Quality Authority (HCQA) provides oversight of home care services provided by individual providers. HCQA's duties include establishing qualifications and accountability standards for, and investigating the background of, individual providers. It also recruits new individual providers, provides them with training opportunities, and administers a referral registry to help consumers find an individual provider.

Collective Bargaining. Employees of cities, counties, and other political subdivisions of the state bargain their wages and working conditions under the Public Employees' Collective

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Bargaining Act (PECBA). Adult family home providers and individual providers who receive payments from the Medicaid and state-funded long-term care programs and individual providers also have collective bargaining rights under the PECBA.

Summary of Bill: Various provisions relating to adult family home caregivers are enacted and amended. They establish a referral registry, grant collective bargaining rights, and provide for training opportunities. They also address the minimum wage rate paid to caregivers and the Medicaid and state-funded long-term care rates paid to providers. For purposes of these provisions, "caregivers" are those who are employed by adult family home providers. "Adult family home providers" are those who receive payments from the Medicaid and state-funded long-term care programs and who have collective bargaining rights under the Public Employees' Collective Bargaining Act (PECBA).

Referral Registry. HCQA must establish and manage a referral registry, and must assist adult family home providers in finding caregivers and respite care through the referral registry. Adult family home providers must provide lists of caregivers to HCQA to be included in the referral registry. Lists must include the names and addresses of caregivers, as well as information necessary to determine whether caregivers have met minimum training requirements and undergone criminal background checks. HCQA must determine that caregivers have met minimum training requirements, undergone criminal background checks, and are not listed on DSHS' long-term care abuse and neglect registry before including them in the referral registry. Adult family home providers must contract with HCQA for all hours of care provided by caregivers beginning October 1, 2009. HCQA must, upon request, provide lists of caregivers to labor organizations seeking to organize caregivers. Lists must include names and addresses of caregivers.

Caregiver Compensation and Long-Term Care Payment Rates. Beginning July 1, 2008, adult family home providers must pay caregivers wages of not less than \$9 per hour. Beginning October 1, 2009, HCQA must pay caregivers wages based on the greater of the minimum hourly rate (\$9 per hour), a rate set by legislation, a rate set by collective bargaining, or a rate requested by the provider. HCQA must also administer fringe benefits and deduct and remit payroll taxes. Beginning October 1, 2009, HCQA must collect cost reports from adult family home providers. Cost reports must include: (1) hours of care provided by providers, hours of care provided by caregivers, and costs of those hours; and (2) costs of noncare-related items, such as supplies or capital costs. Client-specific daily Medicaid and state-funded long-term care rates must be increased to reflect personnel costs (as a percentage of overall costs) and increases to wage rates.

Collective Bargaining for Caregivers. Solely for purposes of collective bargaining, caregivers are "public employees" and the Governor is the "public employer." The only appropriate unit is a statewide unit of all caregivers. The exclusive representative is determined in the manner specified in the PECBA. The scope of bargaining is limited to the following: wages, fringe benefits, and training; how DSHS's core responsibility affects hours of work for caregivers; and public employer contributions to the training partnership.

Caregivers are subject to mediation and binding interest arbitration if an impasse occurs in negotiations. Union dues are deducted from the caregiver's payments as authorized by the caregiver or as required by a union security clause. The following are not modified: the

providers' rights to select, hire, supervise, and direct the work of, terminate, and determine the conditions of employment; DSHS's authority to establish plans of care or its responsibilities to manage long-term care services; DSHS's obligation to comply with Medicaid laws and waivers and to ensure federal financial participation; the residents', parents', or legal guardians' right to choose and terminate a provider's services; the rights of providers and caregivers under the National Labor Relations Act; and the Legislature's right to make programmatic modifications.

Training. Training opportunities for caregivers represented by an exclusive bargaining representative must be offered through contracts with the training partnership.

Other. The scope of bargaining with adult family home providers is modified to exclude matters subject to bargaining with caregivers.

HCQA has the same authority with respect to caregivers as it has with respect to individual providers, including rulemaking. A new dedicated account is established into which payments from providers are deposited and from which payments to caregivers are made. The account is subject to allotment, but not appropriation. HCQA may contract with a financial institution to receive and deposit payments in and make expenditures from the account. The account retains its interest earnings.

Appropriation: None.

Fiscal Note: Requested on January 28, 2008.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2008.